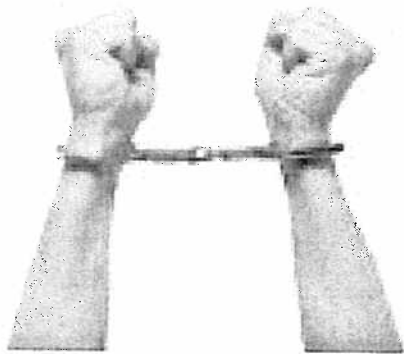


“People should not
fear their government,
the government
should fear their
people”

Martin Luther King



My name is Caroline Burgess. I am here before you to speak for those without a voice, for those who can not speak for themselves. I come before this committee today to provide a testimony based on experience with the Parole Board, its policies and direct reference to the recidivism rate.

On September 13, 2006 my life changed dramatically and I was introduced to the darker side of the Michigan Department of Corrections. My knowledge up until then was limited and that was my own fault. I always assumed the criminal justice system did its job and that was that. However, throughout the past six months I have learned the weaknesses and the strengths the Michigan Department of Corrections can provide. My fiancé has been held in custody since this date. He is what is referenced as a Technical Parole Violator, sentenced to do sixty months because of a facsimile of a firearm. This specific parole violation is in reference to Parole Policy Directive 06.05.104. This policy directive states

“For the purposes defined in number 1 and 2 above, a firearm is considered to be any weapon capable of firing a missile of any type, including a BB gun, and an imitation of a firearm and a simulation of a firearm”

I sent a request to the Freedom of Information Act and was provided the following information and statistics were derived from information provided.

Request: Number of inmates sentenced to sixty months per the firearm parole violation in referencing Parole Policy 06.05.104

From the information received the following statistics are produced:

There are 272 people imprisoned in regards to this violation.

This is costing the state on average \$8,704,000 per year.

After the five year sentence is served, the state and the citizens of the state would have paid \$43,520,000.

Many people incarcerated currently per this parole policy are only Technical Parole Violators with no new crime committed.

*If the previous crimes were/are considered non-violent and never involved a weapon of any type why should these specific parole violators be subjugated to the same punishment as others who have already broken the State law specifically?

If carrying a firearm while committing a crime, legally, the punishment is two years imprisoned, not a day more or less. (MCL 750.227b-first offense)

*A new felony involving a firearm for the first offense can only receive two years imprisonment; however, a Technical Parole Violation involving a firearm or a facsimile/imitation of a firearm can and does carry a five year sentence.

A firearm, defined by state law is (MCL 750.222) (d) "Firearm" means a weapon from which a dangerous projectile may be propelled by an explosive or by gas or air. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB's not exceeding .177 caliber.

*Firearm is clearly defined within state law.

Under MCL 791.233(3) "(3) Pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the parole board may promulgate rules not inconsistent with this act with respect to conditions to be imposed upon prisoners paroled under this act."

*Michigan state law expressly authorizes the parole board to promulgate rules and policies as long as the policies are not inconsistent with other laws.

The recidivism rate has significantly increased as well as the numbers of people surpassing their early release date. The Parole Board is the only connecting link between the two rising numbers. Michigan Department of Corrections created this budget crisis on its own accord with no one to blame but themselves. Convicted felons were sentenced to minimum time sentences in the essence of returning to society rehabilitated and able to become productive law-abiding citizens. However, with the strict policies and conditions they are required to follow the system has been created for the convicted persons to fail.

I recently received an email response from an employee of the MDOC and it stated that "When a parolee possesses a firearm or a facsimile of a firearm, it is a dangerous situation that places the community at risk."

This statement, from someone unknown to me, disgusted me. The fact of the matter is, in our specific case, no one in our community viewed my fiancé as a threat. Even now while he is incarcerated, due to a facsimile of a firearm and sentenced to the maximum sentence possible, no one in our community views him as a threat.

Some questions I have to pose to the MDOC and government are, why are there men and women currently incarcerated, taking up space in overcrowded prisons, when there are people committing crimes on a daily basis and being held in county jails because there are no beds available in prison? Why are we wasting thousands and millions of dollars a year on facsimiles of firearms? When did a squirt gun, BB gun, air soft gun become an item that tears families apart? There are currently an estimated 51,000 men and women incarcerated in Michigan prisons right now. That equivocates to 51,000 families unable to purchase these items. That is a minimum of 51,000 products unable to be sold, taxed, and possibly manufactured and turned into profit in this State. This Parole Policy effects an enormous amount of sales, taxes, prison populations, possible employment opportunities and families. When did it become a form of "justice" to imprison men and women for a facsimile of a firearm, up to five years no less? May I also take a moment to say, that until September 13, 2006 I never even knew a "facsimile" of a firearm existed; and better yet, never realized it was so "dangerous" to society.

September 13, 2006 has dramatically changed my life. My fiancé and I now only see each other once a week, if I can afford it. We went from a two-income household to one. I now have to drive three hours to wait an hour, be patted down and searched, just to share simple stories and daily happenings with him. He is not just “another inmate” nor is he just “another MDOC” number nor is he just another statistic. He is my partner. He is my best friend. When Mr. Quinlan sentenced my fiancé to five years imprisonment because of a facsimile of a firearm, I suddenly realized that now I was a victim. I am a victim of the MDOC.

After contemplating these thoughts for hours, I wonder how many other families were ripped apart at the seam because of a facsimile of a firearm? How many more families will be torn apart because of the same thing? How many more victims will the MDOC create?

Many times while researching this new vocabulary word, facsimile of a firearm, I often hear members of the government or MDOC reference Patrick Selepak. A name we do not hear often is Samantha Bachynski. She did not have a prior record nor did she have any violent history and she was still convicted and sentenced to life for participating in the horrendous acts that have made Patrick Selepak a “legacy”. If we are to compare ever inmate, parolee, probationer to Selepak then we must compare every person with a criminal free background to Samantha Bachynski. Yes, releasing Selepak was a horrible mistake. Yes, he was convicted of horrendous crimes. Yes his previous address was a Michigan prison cellblock; but Bachynski’s previous address was not.

We can not continue to create havoc in an already chaotic world. Imprisoning people because of facsimiles of firearms is cruel and unusual punishment and is a waste of Michigan taxpayers’ (mine included) hard earned dollars.

Non-violent offenders, different degrees of sexual offenders, persons convicted of drug related crimes can not be placed under the same Parole Supervision Policies. Each crime, each offender is different. Every circumstance regarding each incident has its own characteristics. Each person convicted of a crime is sentenced to specific punishment. Each individual has to face the same Parole Board and when released, pending the crime similar Parole Supervision Conditions that do not reflect upon the person nor the rehabilitation that may or may not have been obtained during incarceration are established for that person to live and abide by.

How can we, as a State, categorize 51,000 people that are incarcerated to the same set of Parole Supervision Policies?

Currently, there are several prisons closing and the people of this State are up in arms about the employment issues that are evolving from this decision. As an idea, the State can train and educate these people to fulfill and new section of the Parole Office. New parole supervisions can be and need to be created to fit the more appropriately categorized parolees.

If we want to reduce the recidivism rate, we must acknowledge the difference in each said criminal. A non-violent offender should not be required to live and abide by the same rules and supervision policies of a violent offender. A sexual offender of the third degree is incomparable to that of a sexual offender of the first degree, yet the parole supervision conditions for both convicted criminals are the same. How can someone work on becoming an active and proactive member of society if they are never allowed an opportunity to overcome mistakes of the past?

The Parole Board has too much power. A Board of ten people can not make the decisions that effect the lives of thousands upon thousands of men and women on a daily basis. When the Parole Board was granted an amended statute in 1992 allowing them to be arbitrary the number of parole eligible inmates that received parole significantly reduced to a stunning low of 22%. Pursuant to MCL 791.231a, the Director may remove a Parole Board member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office. Administratively, the Parole Board members report to the Director through the Deputy Director of Field Operations Administration. The Director and Deputy of Director of Field Operations Administration are unable to consistently review the decisions of the Parole Board granting the Parole Board absolute power. To show us how far we have come in today's society President Abraham Lincoln and many others spoke these words that ring true today as much as it did in the past "Absolute power corrupts absolutely".

In conclusion, September 13, 2006 will be a day that never leaves my mind. It is the day that marked a new chapter of my life that led me here, before you today. September 13th exposed me to the ugly truth within the Michigan Department of Corrections and our Government. The Parole Board has stepped well beyond their limitation of power. We would be doing ourselves a great injustice if this issue is not corrected swiftly. The greatest injustice, forgetting that people imprisoned are more than a number he/she is a person. Michigan's Parole Board needs to change. The Parole Policies inflicted upon thousands and thousands of people need to change. The fact that the MDOC can and does imprison people for a facsimile/imitation firearm needs to change. Convicted felons that are subjected to live under the same rules and supervision conditions as others with much different and horrendous crimes needs to change. Comparing every inmate to Patrick Selepak needs to change. Not comparing every individual to Samantha Bachynski needs to change. The Parole Board being arbitrary needs to change. The State of Michigan is currently "under revision" with a Governor willing to go the extra mile to ensure Michigan's future. It is time that the Michigan Department of Corrections follows suit and makes the appropriate changes necessary to enable people to utilize the United States Constitution in these specific areas:

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to

have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

To be included to this list is The Declaration of Independence stating: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed..."

We as the great State of Michigan owe our citizens results.

Thank you,



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